

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EDGAR CHAN-SOSA,
Plaintiff,

v.

CALIFORNIA HIGHWAY PATROL, et al.,
Defendants.

Case No. [15-cv-00008-SI](#)

**ORDER GRANTING MOTION TO
DISMISS**

Re: Dkt. No. 30

Currently before the Court is defendants' motion to dismiss. Docket No. 30. Pursuant to Civil Local Rule 7-1(b), the Court finds this matter appropriate for resolution without oral argument and hereby **VACATES** the hearing set for July 22, 2015. For the reasons set forth below, the Court **GRANTS** defendants' motion to dismiss.

BACKGROUND

On January 13, 2013, plaintiff Edgar Chan-Sosa's sister was driving him and his three friends home from a San Francisco 49ers game. Complaint ¶ 11. Plaintiff was seated in the front seat, his friends were in the back "cargo area." *Id.* The vehicle was pulled over by California Highway Patrol ("CHP") Officers Allen and Jorgenson for a traffic violation. *Id.* The officers observed that the three individuals in the back seat were not wearing seat belts and that there was an open container of beer in the vehicle. *Id.* Plaintiff was not observed to have committed any violations of law. *Id.* The three passengers in the rear exited at the officers' request. *Id.* Allen directed one of those passengers to sit down, placed his hands on the passenger's shoulder and back, and pushed him into a concrete trash receptacle, knocking it over; Allen then fell on top of him. *Id.* In response plaintiff and his sister exited the car and expressed their disapproval of

1 Officer Allen's conduct. *Id.* Officer Jorgenson removed his taser, put his hand on plaintiff's chest,
2 and directed him to move away. *Id.* Plaintiff swatted Jorgenson's hand. In response, Jorgenson
3 deployed his taser, which struck plaintiff's left eye and right jacket sleeve, but did not properly
4 charge. *Id.* Plaintiff put his hands in the air, turned around and began to walk away. *Id.* With the
5 taser still attached, Jorgenson employed a "stun drive" placing the taser unit into plaintiff's back
6 and sending a charge to his eye and arm, causing serious injury. *Id.* Plaintiff was transported to
7 Marin General Hospital where he underwent emergency surgery on his eye. *Id.* He is still
8 receiving treatment for his injuries, and he may have to undergo additional surgeries to implant an
9 artificial lens. *Id.* His left eye is currently unable to focus. *Id.*

11 DISCUSSION

12 Plaintiff filed the present action in Marin County Superior Court on July 23, 2014; on
13 January 2, 2015, defendants removed this case to federal court. Docket No. 1. The complaint
14 alleged fourteen causes of action under state and federal law. On May 8, 2015, the Court granted
15 the defendants' motion to dismiss plaintiff's state law claims with prejudice, and dismissed his
16 federal claims with leave to amend. Docket No. 27. On June 5, 2015, plaintiff filed a First
17 Amended Complaint ("FAC"). Docket No. 29. On June 19, 2015, defendants filed a motion to
18 dismiss all claims against the State of California, the CHP, and for injunctive relief. Docket No.
19 30. On July 7, 2015, plaintiff filed a notice of non-opposition. Docket No. 33. Accordingly, the
20 Court **GRANTS** defendants' motion to dismiss. **Plaintiff may file an amended complaint to**
21 **conform to the Court's order no later than July 17, 2015.**

22
23 **IT IS SO ORDERED.**

24 Dated: July 7, 2015

25
26 
27 SUSAN ILLSTON
28 United States District Judge